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Resolution adopted by the Human Rights Council on 24 March 2017

34/38. Technical assistance and capacity-building to improve human rights in Libya

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights and relevant international human rights treaties,

Confirming the primary responsibility of States to promote and protect human rights,

Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of Libya,

Looking forward to a future for Libya based on national reconciliation, justice, respect for human rights and the rule of law,

Reaffirming its previous resolutions on Libya,

Reiterating its support for the full implementation of the Libyan Political Agreement, signed in Skhirat, Morocco on 17 December 2015, establishing a Presidency Council to form a Government of National Accord consisting of the Presidency Council and Cabinet supported by the other institutions of the State, including the House of Representatives and the State Council,

Expressing deep concern at the continued human rights violations and abuses committed in Libya, and at the fragile security situation and the acts of terrorism perpetrated against the people in Libya, resulting in loss of life and mass displacement, and their particular impact on women and children,

Expressing serious concern at the impact of the security and political crises and of terrorism against migrants, and at the death of migrants attempting to cross the Mediterranean Sea,

Expressing deep concern at the deteriorating humanitarian situation in Libya, including the damage caused to hospitals, shortages of medicines and medical supplies, and lack of treatment, and the disruption to public services and public utilities,

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Reaffirming that those responsible for violations or abuses of human rights and violations of international humanitarian law should be held accountable, and that counter-terrorism measures should prioritize the protection of civilian populations and must be consistent with applicable international law,

Expressing full support for the efforts led by the United Nations Support Mission in Libya led by the Special Representative of the Secretary-General for Libya to ensure broad Libyan support for the Libyan Political Agreement as a Libyan-led political solution to the challenges facing Libya,

Underscoring the importance of the equal and full participation of all members of Libyan society, including women, civil society and youth, in the political process,

1. *Welcomes* the commitment of the Government of National Accord to improve human rights in Libya, and its continued cooperation with the Human Rights Council and its mechanisms;

2. *Also welcomes* the continued commitment of the Government of National Accord to the universal periodic review process, and emphasizes the pressing need for implementation of the recommendations accepted;

3. *Further welcomes* the creation of the Presidential Guard by the Presidency Council with the task of securing the Presidency Council and public facilities, and supports this initiative, which contributes to the stability of Libya;

4. *Takes note with appreciation* of the oral update delivered by the United Nations High Commissioner for Human Rights to the Human Rights Council at its thirty-third session, with the participation of the Special Representative of the Secretary-General for Libya, on the situation of human rights in Libya, including the steps taken by the Government of National Accord towards ensuring accountability for human rights violations and abuses, in accordance with Council resolution 31/27;

5. *Also takes note with appreciation* of the report of the High Commissioner on the situation of human rights in Libya, including on the effectiveness of technical assistance and capacity-building measures received by the Government of Libya;[1]

6. *Strongly condemns* all acts of violence in Libya, and all violations and abuses of humans rights and violations of international humanitarian law that are being committed, in particular against civilians, including women and children, as well as those involving indiscriminate shelling, including of hospitals, abductions, enforced disappearances, torture and unlawful killings, including of government officials and judges;

7. *Condemns* all attacks, intimidation, harassment and violence against journalists, media workers, members of civil society and human rights defenders, especially given their role in documenting protests and human rights violations and abuses, and restrictions on freedom of expression;

8. *Repeats its call* to all parties to comply immediately with their applicable obligations under human rights and international humanitarian law and for strict respect of all human rights and fundamental freedoms, and urges all leaders to declare that violations and abuses of human rights by their fighters will not be tolerated and that individuals responsible for such acts will be removed from duty;

9. *Recognizes* the ongoing human rights challenges in Libya, and strongly encourages the Government of National Accord to increase its efforts to protect and

[1] A/HRC/34/42.

promote human rights and to prevent any violations or abuses, and in this regard encourages its continued engagement with the United Nations Support Mission in Libya and the Office of the High Commissioner;

10. *Also recognizes* the efforts made by States in tracing, freezing and recovering stolen assets, and the importance of effective cooperation between the international community and the Libyan authorities in this regard, taking into account the potential contribution of these assets to improving security, development and the protection of human rights in Libya;

11. *Calls for* those responsible for violations or abuses of international human rights law and violations of international humanitarian law to be held accountable, in accordance with international standards;

12. *Calls upon* the Government of National Accord to appoint a focal point on justice and human rights;

13. *Also calls upon* the Government of National Accord to increase efforts to end impunity, and notes its cooperation with the International Criminal Court to ensure that those responsible for violations or abuses of human rights or violations of international humanitarian law, including attacks targeting civilians, are held accountable;

14. *Strongly condemns* practices such as abduction, hostage-taking, incommunicado detention, abuse and killings carried out by armed groups, most notably the so-called Islamic State in Iraq and the Levant (Daesh), the Ansar al-Sharia groups and other terrorist organizations in Libya listed by the United Nations, and underlines that murder, torture and deprivation of physical liberty in violation of international law are predicate acts that may in certain circumstances amount to crimes against humanity, while reiterating grave concern about the negative impact of the presence of Daesh and its deadly actions in Libya, neighbouring States and the region;

15. *Calls upon* all Libyans to unite under civilian command, including to combat terrorism in the country, and urges all Member States to cooperate actively in this regard with the Government of National Accord and to provide support as requested while ensuring the full respect for human rights in efforts to combat terrorism;

16. *Expresses grave concern* at the number of detainees, including conflict-related detainees and children, and at reports of torture, sexual and gender-based violence and harsh conditions in detention centres, and calls upon the Government urgently to establish full and effective control over all detention centres in order to ensure that detainees, including foreign detainees, are treated in accordance with its international obligations, including, as applicable, those relating to fair trial guarantees and humane treatment in detention;

17. *Also expresses serious concern* at the acute humanitarian situation in Libya, condemns in the strongest terms obstructions to the delivery of humanitarian aid, and calls for full, immediate and unfettered humanitarian access for United Nations humanitarian agencies across Libya, their implementing partners and other humanitarian organizations, including across conflict lines and, as appropriate, across borders, in order to ensure that humanitarian assistance reaches people in need by the most direct routes;

18. *Calls upon* the international community to provide financial support for the United Nations humanitarian response plan for Libya for the period 2017-2018 to address the needs of 1,330,000 people;

19. *Urges* the Libyan authorities to expedite the voluntary, safe and dignified return of all persons displaced by the conflict since 2011, in accordance with applicable law;

20. *Encourages* the Government of National Accord to promote, protect and respect the human rights of migrants, refugees and internally displaced persons, to hold human traffickers accountable and to provide a framework for the enhanced engagement of the Office of the United Nations High Commissioner for Refugees, and to continue to cooperate with the International Organization for Migration;

21. *Urges* the Government of National Accord, the international community, the United Nations and all parties to the conflict to facilitate the full, equal and effective participation of women in activities relating to the prevention and resolution of the armed conflict, the maintenance of peace and security and post-conflict peacebuilding, in accordance with relevant Security Council resolutions, including resolutions 1325 (2000) of 31 October 2000 and 2122 (2013) of 18 October 2013, and welcomes in this regard the decision of the Presidency Council to establish a women's support and empowerment unit, consistent with the Libyan Political Agreement;

22. *Urges* the Constitutional Drafting Assembly to resume its efforts to complete a draft constitution that protects the human rights of all, including women and members of all communities and people living in vulnerable conditions, and to ensure the participation of all members of society, including civil society organizations, as far as possible, in the process of drafting the constitution;

23. *Welcomes* the commitment of the Government of National Accord to human rights and its continued cooperation with the Human Rights Council and its mechanisms, including the wish expressed by the President of the Presidency Council in his speech addressed to the Council at its thirty-fourth session to continue cooperation with the Office of the United Nations High Commissioner for Human Rights, and to renew the invitation for the High Commissioner to visit Libya, and urges the Government:

(*a*) To intensify efforts to prevent acts of torture, to investigate all allegations of torture, to hold those responsible to account, and to provide fair and adequate compensation for victims;

(*b*) To take immediate steps to protect freedom of expression, ensuring that the media can operate freely and without discrimination, to review the provisions of the Penal Code and other provisions that violate freedom of expression, and to abolish all Penal Code restrictions on freedom of expression that stipulate imprisonment and the death penalty for "insults" to officials, the judiciary or the State;

(*c*) To make further progress towards the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(*d*) To promote the continued operation of the National Council for Civil Liberties and Human Rights, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles);

(*e*) To further empower women and girls, including by ensuring their full representation in politics, the police and the judiciary;

(*f*) To ensure the protection of cultural rights and freedom of religion and belief, in accordance with its international obligations;

(*g*) To take appropriate steps to help to prevent all attacks on and destruction of cultural and religious sites, in violation of international law, particularly sites on the World Heritage List of the United Nations Educational, Scientific and Cultural Organization, and to hold accountable those responsible for such attacks and destruction;

(*h*) To take further steps to guarantee freedom of association and peaceful assembly, including by reviewing the articles of the Penal Code that undermine freedom of association and by adopting a law for civil society organizations that is in accordance with the international obligations of Libya with regard to freedom of association, that ensures the full protection of human rights defenders and that includes only legal limitations that comply with the international treaty obligations of Libya;

24. *Urges* the Government of National Accord, working with all relevant parties, to implement the recommendations addressed to it by the High Commissioner in his report presented to the Human Rights Council at its thirty-first session on violations and abuses of international human rights law committed in Libya since the beginning of 2014, in particular those relating to the justice sector, transitional justice and criminal justice accountability measures;[2]

25. *Underlines* the importance of, and the commitment of the Government of National Accord to, continued human rights monitoring, assessment and evaluation in order to determine effective human rights technical assistance and capacity-building measures;

26. *Requests* the Office of the High Commissioner, while continuing its engagement with the United Nations Support Mission in Libya, to monitor and report on human rights violations and abuses across Libya, and to establish the facts and circumstances of such abuses and violations with a view to avoiding impunity and ensuring full individual accountability;

27. *Welcomes* the standing invitation that Libya has extended to all special procedures, and requests the High Commissioner to coordinate with mandate holders relevant to the present resolution to undertake visits to Libya and to be provided with all the resources necessary to support the visits throughout 2017, in support of his work and that of the United Nations Support Mission in Libya, and in particular to assist efforts to ensure individual accountability and to prevent further human rights abuses and violations, and to make recommendations to improve the situation of human rights through targeted technical assistance, with a view to help the State to fulfil its human rights obligations and commitments and to support reconciliation;

28. *Invites* the Office of the High Commissioner to work closely with all entities of the United Nations, the African Union, the League of Arab States, the Organization of Islamic Cooperation and all other international organizations concerned;

29. *Requests* the High Commissioner to present an oral update to the Human Rights Council at its thirty-sixth session during an interactive dialogue, with the participation of the Special Representative of the Secretary-General for Libya, and to present a written report during an interactive dialogue with the Council at its thirty-seventh session;

30. *Decides* to remain seized of the matter.

59th meeting
24 March 2017

[Adopted without a vote.]

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[2] A/HRC/31/47.